

## Meeting Minutes

### **Public Informational Meeting & Hearing on Proposed Phantom Lake Management District**

Tuesday, February 9, 2021 – Microsoft Teams

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#### Staff/Committee Attendance:

Supervisor Bill Mitchell, Waukesha County Board Supervisor and Land Use, Parks and Environment (LUPE) Committee Chairman

Demetra Christopoulos, Waukesha County Corporation Counsel

Alan Barrows, Waukesha County Department of Parks and Land Use

Kendra Oldfield-Roberson, Waukesha County Department of Parks and Land Use

Darlene Johnson, County Board Supervisor, District 25

#### Absent

Perry Lindquist, Waukesha County Department of Parks and Land Use

Public Attendees: 9

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**Bill Mitchell called the meeting to order at 7:00pm and reviewed the agenda.**

#### **Presentation: Phantom Lakes Management District – Alan Barrows**

Phantom Lakes located in lower, central area of county, in the Village and Town of Mukwonago. There are 483 acres of total lake. The Lake District was created on July 19, 1977; the boundary was refined in 1999 and additional territory was attached in 2001. The proposed additional parcel is located in the Village of Mukwonago. Current enabling legislation for the Attachment of Territory to a District is allowed by Chapter 33.33(2) of the Wisconsin Statutes; this provides for the attachment of contiguous territory to a District boundary by petition of the owner or by motion of the commissioners. Property can be attached to a district by:

1. A petition to the district by the owner of a contiguous parcel. The petition must be accepted by a majority vote of the district commissioners.
2. If the commissioners by motion initiate attachment proceedings, they shall notify the owners of the territory contemplated for attachment and the County Board. The County Board shall schedule a hearing on the motion.

The process for attachment of territory by motion includes:

1. Upon filing of the petition with Waukesha County, the Phantom Lake District Ad Hoc Committee schedules a public hearing.
2. The Phantom Lake District Ad Hoc Committee will report to the County Board within 3 months after the date of the hearing.
3. Within 6 months after the date of the hearing, the County Board shall declare the territory to be either attached or not attached.

4. Appeals to the County Board's decision are made through a petition to the circuit court, not more than 30 days after the Board's decision.

To attach territory the District by motion, the County Board must make several findings:

1. The petition is signed by the required District representative.
2. That the proposed territory attachment to the district is necessary.
3. The public health, comfort, convenience, necessity or public welfare will be promoted by the attachment of this territory to the district.
4. That the property to be included in the district will be benefited by being in the district.

Notice, Filing and Recording Requirements as indicated by Chapter 33.265 Wisconsin Statutes indicates If a district is created or its boundaries altered, the board of commissioners shall record the authorizing document, including a legal description of the boundary, with the register of deeds in each county where the district is situated, and file the document and legal description with the department of natural resources and the department of revenue. Exhibit A and an Aerial Photo of the proposed attachment are included and posted on the website.

Alan Barrows asked if there were any questions.

Joe Tearney stated he is representation for the owner and wanted to indicate from the beginning that they are opposed to the motion. He would circle back to this position once the Public Hearing was opened.

It was asked if the property owner (of the proposed attached parcel), currently owns any other property in the district? It is unclear, the notice only indicates one, might be a sliver that is included in boundary.

### **Supervisor Bill Mitchell opened the Public Hearing**

#### **Public Comments:**

Jake Jagmin: 415 Lake St

Jake is in favor of adding the proposed attachment. Jake stated adding this parcel is consistent with other properties in the district that have deeded lake access. Jake stated that on June 2, 2020, the police Chief advised that the proposed parcel for attachment does have lake access through trolley tracks. Jake stated that residents do have lake access as it is advertised on their website; the website also points out the lake views, access, and proximity – which can be used for launching a canoe or kayak.

Alan Barrows read the public notice, which was published in the Waukesha Freeman on February 2, 2021.

#### **Public Comments:**

Steve Verduyn: 425 Andrews St

Steve stated that he is a Board Member of the Phantom Lake Management District. Steve stated that the only way the residents and management of the proposed property would be able to shape the district is to add them; Steve stated that by adding this parcel to the Lake District they can attend Lake District meetings (this is currently available to them), but would be able to vote too. Steve stated this is consistent with another number of properties: Lois Street, Bekum Street; these properties are all included in the Lake District and have a small sliver that grants them access to the lake. Steve stated that the website of the proposed parcel heavily uses lake views and aesthetics to promote their property.

Alan Barrows read an Email sent to him by the Owner (Mikko Erkamaa)

Please present this email tonight from me as owner of the Pointe Apartments LLC.

Dear Commissioners,

I am aware of your intent to include MUKV [2009965004](#) (.563 acres located on Phantom Lake) and MUKV [2009965003](#) (4.375 acres with no frontage on Phantom Lake) in the Phantom Lakes Management District. I respectfully object to this request.

With respect to MUKV [2009965004](#), the parcel is too small to build on and mostly consists of wetlands. Although I concede it has frontage, the District has not previously included the parcel presumably because there is no benefit to the Lakes or parcel itself.

With respect to MUKV [2009965003](#), the parcel consists of apartments, has no frontage on the Lakes, and is effectively cut off from access by the East Troy Railroad. The railroad right of way is covered with trees and buckthorn and other invasive species so views are blocked and access is limited. There is also no public necessity, health, comfort or welfare benefit attributable to including this parcel as the any potential access is private in nature. As with the other parcel, the District has not previously included this parcel, again, presumably because it did not meet the benefit test.

I would also note that the District is not asking to add the other businesses across the railroad tracks. As a result, this inclusion appears to be an attempt to arbitrarily capture a valuable property for the District's tax base. Moreover, the result would be disproportionate and unfair. Our property would be burdened with the largest portion of taxes when our residents would have little or no use of the Lakes. As you know, this is a competitive market, more costs make it harder to operate effectively.

In conclusion, the District did not include these parcels when the District was formed because it did not meet the public or private benefit test. There remains little or no benefit to our parcel to being included in the District. Furthermore, this decision appears arbitrary when viewed in light of the fact that no other businesses across the right of way are being included. Respectfully, please do not include my property in the District.

Mikko Erkamaa

414-559-5283

#### Joe Tearney (Counsel for the Property Owner)

Joe stated that he is here to answer further questions. Joe stated that adding the proposed property to the Lake District adds a disproportionate burden to the residents of the apartments on the property. Joe stated that he and his client are okay with potentially adding the small sliver property to the Lake District if it needs to be done, but not the whole apartment complex.

Supervisor Bill Mitchell asked for clarification from Alan on the tax keys. He would like to know if the petition is for the sliver on the lake in addition to the 4+ acre parcel or just the 4+ acre parcel. Alan clarified that the petition for attachment includes the larger parcel only.

#### Jake Jagmin: 415 Lake St

Jake stated that this petition is to have both included in the boundary and the small sliver is within the district boundary already.

#### Elizabeth Bingham: W303S10580 Sandy Beach Rd

Elizabeth stated that there is a clear legal precedent for this action; given that there is lake access, there should be taxation – as is the case in the neighborhood.

#### Supervisor Darlene Johnson

Supervisor Johnson stated that at the Phantom Lake Management District Board Meeting, a majority consented to have this petition started. Supervisor Johnson referenced the letter from the Property Owner

and stated that by having the proposed property added to the Lake District, he (or residents) would be able to come to meetings and vote.

Steve Verduyn: 425 Andrews St

Steve referenced the letter from the Property Owner and made a distinction regarding the other businesses not being brought in. Steve stated that the proposed property, prior to development of the current apartments, was a car dealership. Steve stated that there was no benefit to bringing the property in with such a business; however, residents of the apartments get use of the lake and enjoy that benefit. Steve referenced the letter from the Property Owner in regard to the railroad clearing that provides access to the lake: Steve stated that this area has to be clear of buckthorn and brush to function. Steve also stated that the Property Owner is using the lake views and access in advertising. Steve stated that they cannot have it both ways.

Joann Tlachac-Hehn: 435 Lake St

Joann stated that being on the lake speaks to quality of life; Mukwonago is a small community and lake plays huge portion in that quality of life with activities like: fishing, boating, sunsets. Joann stated that it speaks to their quality of life.

**Supervisor Bill Mitchell closed the public comment period**

**Next Steps:**

1. The Phantom Lake District Ad Hoc Committee will report to the County Board within 3 months after the date of the hearing.
2. Within 6 months after the date of the hearing, the County Board shall declare the territory to be either attached or not attached.
3. Appeals to the County Board's decision are made through a petition to the circuit court, not more than 30 days after the Board's decision.

**Adjournment by Supervisor Bill Mitchell at 7:32pm.**